

### **REMARKS**

As of the filing of the present reply, claims 11-15 and 17-20 were pending in the above-identified US Patent Application.

In the Office Action, the Examiner rejected claims 11, 15, and 17-20 as anticipated by U.S. Patent No. 6,492,038 to Rigney et al. (Rigney) under 35 USC §102(e), rejected claims 11 and 14 as anticipated by U.S. Patent No. 6,835,465 to Allen et al. (Allen) under 35 USC §102(e), and rejected claims 12 and 13 as unpatentable over Allen in view of U.S. Patent No. 6,312,832 to Alperine et al. (Alperine) under 35 USC §103.

In response, Applicants have amended remaining independent claim 11 to incorporate the limitations of its dependent claim 15. As such, the §§102 and 103 rejections based on Allen are believed to be overcome.

Regarding the §102(e) rejection based on Rigney, Applicants submit herewith a Rule 132 Declaration previously submitted in parent application 10/064,791 (now U.S. Patent No. 6,998,172), by which Applicant Ramgopal Darolia declared that he conceived/invented the subject matter recited in claims rejected as being anticipated by Rigney under 35 USC §102(e). Applicants believe that the subject matter of the claims pending at the time Applicant Darolia submitted his Declaration is commensurate with the subject

matter of the claims currently pending in the present application, namely, a thermal-insulating material formed to contain elemental carbon and/or carbon-containing gas entrapped within pores that are in grains and at and between grain boundaries of the thermal-insulating material, and present in an amount sufficient to thermally stabilize the microstructure of the thermal-insulating material and resist sintering, grain coarsening and pore redistribution. Accordingly, Applicants believe this showing is commensurate with what is required under MPEP §715.01(a) and 716.10, and therefore respectfully request withdrawal of the rejection under 35 USC §102(e) based on Rigney.

In view of the above, Applicants respectfully request that their patent application be given favorable reconsideration.

Should the Examiner have any questions with respect to any matter now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,



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April 8, 2009  
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Attachment: Declaration of Ramgopal Darolia

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**OFFICIAL**

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/064,791  
Applicant : Boris A. Movchan et al.  
Filed: : August 16, 2002  
TC/Art Unit: : 1771  
Examiner : Hai Vo

Confirmation No. **4089**

Docket No. : 13DV-13975  
Customer No. : 30952

OFFICIAL

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**DECLARATION UNDER 37 CFR §1.132**

Assistant Commissioner for Patents  
Washington, D.C. 20231

I, RAMGOPAL DAROLIA, depose and say that:

- (1) I am a joint inventor of the subject matter covered by each of the claims pending in the above-identified patent application ("Application").
- (2) Claims 26-40 of the Application are rejected as claiming subject matter found in U.S. Patent No. 6,492,038 to Rigney et al. ("Rigney").
- (3) I conceived or invented the subject matter that has been cited in the

Application No. 10/064,791  
Docket No. 13DV-13975  
Amendment dated August 6, 2004  
Reply to Office Action of April 6, 2004

rejection of claims 26-40 under 35 USC §102(e) as being disclosed but not claimed in the Rigney patent, namely, co-evaporating ceramic and carbon-containing materials to yield a thermal barrier coating containing, on the premise of inherence, elemental carbon and an insoluble gas. As such, this subject matter relied on under the §102(e) rejection was derived from me and is thus not the invention "by another."

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

*Ramgopal Darolia 08/06/04*  
Ramgopal Darolia